

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

ROBERT JOSEPH TUNNELL

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Petitioner

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v

*

Civil Action No. CCB-11-71

WARDEN

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Respondent

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MEMORANDUM

The above-captioned petition for writ of habeas corpus, filed on January 4, 2011, references Tunnell's previous habeas corpus action, *Tunnell v. Harford County Detention Center*, Civil Action CCB-10-3219 (D. Md.). Petitioner did not pay the \$5.00 filing fee and did not seek waiver of the fee.

Petitioner again seeks habeas relief under 28 U.S.C. §2254 and asks that this court change its decision in civil action CCB-10-3219 wherein his petition for writ of habeas corpus was dismissed as unexhausted. ECF No. 1. Petitioner remains in custody at the Harford County Detention Center and states that his bail amount is excessive and his trial date is not until February 2, 2011. He claims he does not know if his trial will take place on that date because Harford County is known for granting continuances.

When filing a federal habeas corpus application under 28 U.S.C. §2254, a petitioner must show that all of his claims have been presented to the state courts. *See* 28 U.S.C. §2254(b) and (c); *see also Preiser v. Rodriguez*, 411 U.S. 475, 491 (1973). This exhaustion requirement is satisfied by seeking review of the claim in the highest state court with jurisdiction to consider it. remains clear that petitioner has not exhausted his claims inasmuch as he has not yet stood trial, nor does it appear he has presented his claim to any Maryland court since May 2010.

Presumably, he has counsel on the pending state charge and may wish to discuss his bail situation with that counsel. That he has been denied release pending trial for nearly one year does not alter the fact that the petition is premature. Thus, it must be dismissed without prejudice by separate order which follows.

January 31, 2011
Date

_____/s/_____
Catherine C. Blake
United States District Judge